Liberalism's Legislative Genius Calls It Quits

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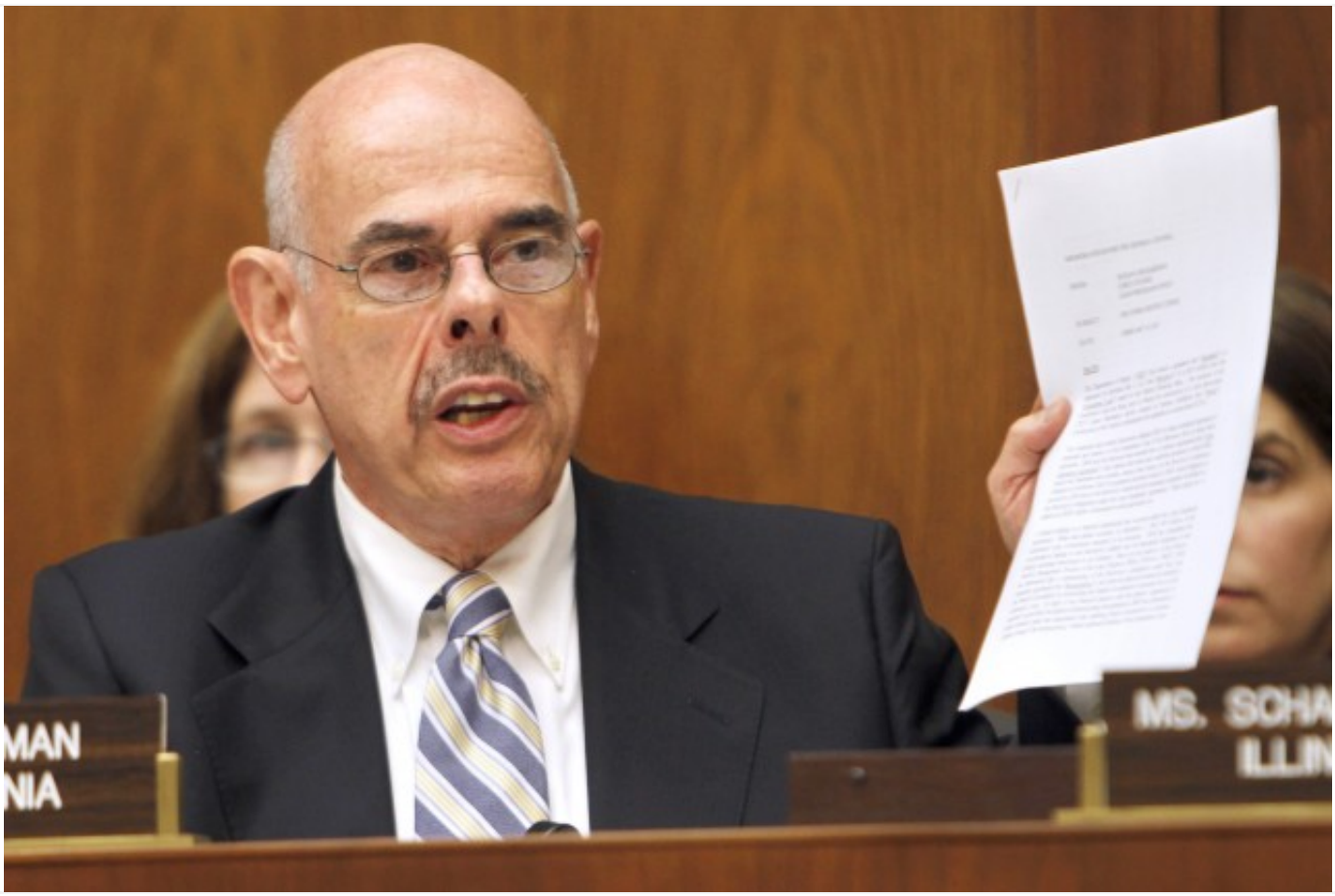
Henry Waxman retires.



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Two things to know about Henry Waxman: First, during his 40 years in Congress, he authored and steered to enactment the legislation that provided health care to millions, that put nutritional labeling on food, that gave rise to generic drugs, that provided medical care to people with AIDS, that greatly reduced smog and acid rain, that strengthened the safety standards for drinking water and food, and that signally reduced the number of Americans who smoke.

Second, in achieving all this, he acquired a sobriquet: "that sonofabitch Waxman." "I thought Henry's first name was 'sonofabitch," his colleague and friend George Miller once said. "Everybody kept saying, 'Do you know what that sonofabitch Waxman wants?"

"People think, 'Of course, we have laws that keep the drinking water safe and the air cleaner,'" Waxman told me yesterday, on the day he announced that he'd retire at the end of the current Congressional session after 40 years in Congress. "But none of them came easy. Some took years of battling. I held the first hearing on HIV/AIDS in 1982, before the disease even had a name. Throughout the '80s, we couldn't even get [then president] Reagan to say the word." It took Waxman eight years, but in 1990, Congress passed and George H.W. Bush signed the Ryan White Act, which provided care to Americans living with AIDS whose health insurance didn't cover it, or who had no health insurance at all.

Think that was hard? Perhaps Waxman's most improbable achievement was to extend Medicaid coverage to millions of poor children during Reagan's presidency. When he began that fight, only children whose parents were on welfare were eligible for Medicaid. Waxman argued that children of parents with jobs that didn't come with health insurance and paid too little for them to buy it should be eligible, too. He persuaded just enough Republicans to go along with his stratagem of inserting that expansion into Congress' annual omnibus appropriations bill, which Reagan then signed into law.

None of this, as Waxman said, came easy. He was a ferocious negotiator in House-Senate conference committees—and throughout the '80s, while the House was controlled by Democrats, the Senate was controlled by Republicans. GOP Senator Alan Simpson once staggered out of an all-night conference and remarked, "Henry Waxman is tougher than a boiled owl." Republican Senate Leader Bob Dole once adjured his colleagues not to add amendments to a particular bill for fear that it would then have to be referred to conference and subjected to Waxman's bargaining prowess.

Hence, "that sonofabitch Waxman." More precisely, the people's sonofabitch.

Waxman certainly doesn't come off as an SOB—to the contrary, he's the most unprepossessing and low-key elected official I have ever known. But Waxman does possess two attributes frequently associated with one of his mentors, San Francisco Congressman Phil Burton, the leading liberal in the House in the '60s and '70s: a "rage for justice" (Burton's description of what he looked for in a colleague) and supreme strategic ability to get things done.

Getting things done the Waxman way didn't involve the bonhomie that politicians characteristically employ. He didn't persuade his fellow congressmen by schmoozing. "Henry never entertains his colleagues," his longtime aide Howard Ellison told me when I wrote a **profile** of Waxman for the *Los Angeles Times Sunday Magazine* in 1995. "He does no sports. His staff would say, 'You should play golf with John Dingell [then chair of Waxman's committee].' Fat chance."

Rather, as I wrote at the time, Waxman "persuades by argument, not by humor or force of personality. Where Ralph Nader unleashes a torrent of indignation, Barney Frank stings with wit and Tom Hayden still taps into a vein of adolescent anger, Waxman simply makes his case point by point. He is not liberalism's man for all seasons. He is only its legislative genius."

You can't be a legislative genius, however, without the power to shape legislation, and Waxman also had a genius for power. His roots were in the California left of the early '60s—as a UCLA law student, he headed the state's Young Democrats, which became the first Democratic organization in the nation to go on record opposing U.S. intervention in Vietnam. With his fellow law student and YD Howard Berman, Waxman set his sights on elected office. In 1968, he waged an insurgent campaign against a veteran Democratic state assembly member in West Los Angeles. Berman's younger brother Michael, still a UC Berkeley undergrad, went through the list of every registered Democrat in the district, and sent out targeted mail to every member of a particular ethnic group that he could identify—the first use of targeted mail in a political campaign that I know of. Waxman won the seat, and with the Bermans (Howard followed Waxman to the Assembly and then Congress; Michael became a dazzling political consultant, to whom California Democrats entrusted the state's decennial redistricting in the days before computers could do it), developed a powerful political operation. Raising money largely from the affluent and disproportionately Jewish Democrats clustered in L.A.'s Westside, they funded and frequently managed not only their own races but also those of their political allies and protégés.

In the 1978 congressional elections, after just four years in Congress, Waxman became the leading donor to his fellow House Democrats, which enabled him to win enough votes in the House caucus to take the place of the sitting chairman of the health and environment subcommittee on the House Energy and Commerce Committee. It was from that perch that Waxman was able to expand Medicaid and write and pass landmark clean air and safe food legislation.

Waxman reworked that maneuver in 2009, when he persuaded caucus members to have him replace the venerable John Dingell as chairman of Energy and Commerce. In that post, Waxman —by far the leading expert in the House on health insurance—played a key role drafting the Affordable Care Act (though his own preference, had it been possible, would have been to adopt Canadian-style universal health coverage).

Waxman's tenacity was legendary. He held up the Clean Air Act for nearly a decade in the '80s until its provisions on emission controls and acid rain were greatly strengthened. To do this, he had to oppose Dingell, his chairman, whose district included the headquarters of the Big Three automakers, and who kept pushing legislation that would have allowed them to keep turning out cars with barely reduced emissions. Once, when Dingell seemed on the verge of getting his bill out of committee, Waxman introduced 600 amendments, which he wheeled into the hearing room in shopping carts. Dingell's bill never made it out of the room.

Waxman was also a tough congressional investigator. He presided over two particularly memorable sets of hearings. At the first, in 1994, he summoned the heads of the seven big tobacco companies and confronted them with evidence that they had suppressed the information on the addictive powers of nicotine. Big Tobacco in the United States never really recovered. In the second set of hearings, he presided over the revelations about steroid use in baseball. It was Waxman's committee to which Roger Clemons swore he'd never used the drugs. Pro baseball didn't recover until it took far stronger action to ban steroids.

In announcing his retirement, Waxman insisted he hadn't given up hope that the Democrats could retake the House in this November's elections. He will soon turn 75, and says, quite reasonably, that he would like to do some other things while he still can. But his retirement, coming on the heels of his colleague George Miller's two weeks ago, means that two Democrats who'd retake the chairmanships of two leading House committees if the Democrats do recapture Congress are leaving. If Republicans retain control—the more likely possibility—there won't be a great deal a House Democrat can do, even if, like Waxman, they're masters of the legislative process.

Miller and Waxman are the last two members of the Watergate Class of 1974—the more than 50 predominantly young Democrats elected to the House that year in the wake of the Watergate scandal—still serving in that chamber. That class soon differentiated itself from its elders by its emphasis on issues that arose from the Sixties left—ending our involvement in Vietnam, focusing more on the environment and equal rights for women. But the California members of that class —in particular, Waxman and Miller (whose district is in East Bay suburbs of San Francisco)— added to this mix Burton's "rage for justice," a zeal for helping the poor and workers. As Ted Kennedy was to the Senate in the '70s, '80s, '90s and aughts, they were to the House.

No one knew better than Waxman how to pass legislation that helped people eat, drink and breathe more safely and enabled them to get medical care when they took sick. That he had to become "that sonofabitch Waxman" to get this done ultimately tells us more about our nation, and how hard it is to improve it, than it does about Waxman himself.

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